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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,321	11/20/2003	Veronique Bailly	13751-032001	3659
26161	7590	07/08/2005	EXAMINER KIM, YUNSOO	
FISH & RICHARDSON PC. 225 FRANKLIN ST BOSTON, MA 02110			ART UNIT 1644	

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/718,321

Applicant(s)

BAILLY ET AL.

Examiner

Yunsoo Kim

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11 and 23-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 3, 8, 9, 24, 25, 27, 28, 31, 32, 35, 36, 39 and 40 is/are allowed.
- 6) ☒ Claim(s) 1, 4-7, 11, 23, 26, 29, 30, 33, 34, 37, 38, 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### Detailed Action

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. Claims 1-9, 11 and 23-41 are pending.
3. Applicant's Remark filed on 6/14/05 has been entered. The new matter rejection under 35 U.S.C. § 112 1<sup>st</sup> paragraph (see sections 4-5, of Action mailed 5/26/05) is withdrawn.
4. Applicant is invited to correct the following informalities in the specification.
  - [0001] – correct status of pending applications is required (insertion of “now abandoned” for example).
  - [0030] – the brief description of figures should assign appropriate SEQ ID NOs or appropriate residues of SEQ ID NO: 6
  - [0053] – new ATCC address is required.
  - [0084] – said SEQ ID NO:1 in the paragraph does not match with the given SEQ ID NO:1 of sequence list, appropriate residues of SEQ ID NO: 1 should be indicated.
5. The following new ground of rejections is necessitated by applicant's amendment and addition of new claims filed on 4/13/05.
6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
  - A person shall be entitled to a patent unless –
  - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
7. Claims 1, 4-7, 11, 23, 26, 29-30, 33-34, 37-38 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Feigelstock et al. (IDS ref AE) as is evidenced by Thompson et al. (Journal of Virology, 1998 vol. 72 No.5, pp.3751-3761).

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Feigelstock et al. teaches polyclonal antibodies to mucin-like region of havcr-1 fused to the GST (p.6622 Antisera, p.6624 Fig 3). As is referenced by Feigelstock et al., the havcr-1-GST fusion construct taught by Thompson consists of GST followed by 228 amino acids of Thr/Ser/Pro rich region of havcr-1 (See Thompson et al. under Antisera, p. 3752-3753 overlapping paragraph). The region where polyclonal antibodies made is from amino acid ranges 142-370 of Fig 3 of Feigelstock reference. As the term "overlapping" extends the range of epitope, where it shows the highest homology the amino acid sequences from 325-361 would be able to cross-react with the epitope within or overlapping the amino acid sequence of SEQ ID NO:1. Thus reference teachings anticipate the claimed invention.

8. Claims 2, 3, 8, 9, 24-25, 27-28, 31-32, 35-36, 39, and 40 are allowable.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yunsoo Kim whose telephone number is 571-272-3176. The examiner can normally be reached on Monday thru Friday 8:30 - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yunsoo Kim  
Patent Examiner  
Technology Center 1600  
July 1, 2005



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